THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.30868 of 1998

Dated:18.07.2007

Between
The Depot Manager, APSRTC, Hyderabad-II
Depot, Dilsukhnagar, Hdyerabad

.....Petitioner

and

K.A.Reddy and another.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.30868 of 1998

ORDER

This writ petition is directed against an award dated 23.6.1998 made in I.D.No.59 of 1996 on the file of the Labour Court-I, Hyderabad, whereunder the claim petition filed by the 1st respondent under Section 2-A (2) of the Industrial Disputes Act, 1947 was allowed and the petitioner was directed to reinstate the respondent-workman into service with continuity of service, attendant benefits and full back wages.

The petitioner is the Management and 1st respondent is the workman. It appears

that, while, the 1st respondent-workman, conducting the bus on 25.11.1995 from Hyderabad to Raichur, a check was exercised at stage No.15/17 at 10.30 hours and the officials found certain cash and ticket irregularities and on the basis of the report of the checking officials, a charge sheet was issued to him enumerating the following charges:

a) He violated the rule 'issue & start'.

b) The petitioner collected fare of Rs.55/- from each of two passengers coming to a total of Rs.110/- who have boarded at IBS Stage and found for Raichur stage No.21 and issued tickets but fail to account the same in the S.R. at issuing point NO.3, but accounted at stage NO.5 Mahaboobnagar and thereby mis-conducted.

c) The petitioner collected fare of Rs.12/- from three passengers

coming to a total of Rs.35/- who boarded the bust at Makhthal stage NO.13 bound for Raichur stage NO.21 and issued tickets of Rs.10/- + 2/- denomination at Makhthal stage No.13 itself but failed to account sale of Rs.10/- denomination tickets in SR and it clearly shows intention to re-issue the same in the journey and thereby mis-conducted.

After conducting a detailed enquiry, 1st respondent-workman was removed from service. Aggrieved by the same, he raised an industrial dispute being I.D.No.59 of 1996 on the file of the Labour Court I, Hyderabad.

On behalf of 1st respondent no witnesses were examined and no documents were marked. On behalf of the petitioner-Management, no witnesses were examined, but Exs.M1 to M16 were marked.

On the basis of the evidence available on

record, the Labour Court came to the conclusion that Charge No.1 is only violation of rule 'Issue and Start'. Insofar as charge Nos.2 and 3 are concerned, the act of the respondent-workman at best amounts to negligence and they do not indicate any *mala fide* intention on his part to cause any loss of revenue to the Corporation. Therefore, directed the petitioner-Management to reinstate him with continuity of service and full back wages. However, the petitioner was awarded punishment of withholding of two increments with cumulative effect from the date on which his increments fall due. Aggrieved by the same, the present writ petition has been filed by the Management.

The charges, as such, noticed above, are very serious in nature. Under charge No.2, the respondent-workman, having collected fare of Rs.55/- from each of two individual

passengers, who boarded at I.B.S stage and bound for Raichur Stage No.21, issued tickets, but failed to account the same in the S.R at issuing stage No.3, and accounted at stage No.5 Mahaboobnagar, by that time, the bus had travelled more than 100 KMs. This itself shows the intention of 1st respondent-workman to defraud the revenues of the Corporation. Insofar as charge No.3 is concerned, though he collected fare of Rs.12/- from three passengers i.e., Rs.36/-, who boarded the bus at Makhthal stage No.13 bound for Raichur stage No.21 and issued tickets of Rs.10/- + 2/- denomination at Makhthal stage No.13 itself, but failed to account sale of Rs.10/- denomination tickets in S.R. This also shows the intention of 1st respondent-workman to re-issue the same for onward or in the next trip. It is unfortunate that the Labour Court held that respondent-workman has no intention to

defraud revenue of the Corporation. The very charge in its nature is serious and the intention is obvious. Therefore, I am of the opinion that the Labour Court while exercising its powers vested under Section 11-A of the Industrial Disputes Act, 1947 ought not to have directed full back wages while ordering reinstatement with continuity of service and attendant benefits. It is brought to the notice of this Court that in pursuance of the interim order passed by this Court on 6.11.1998 in WPMP No.37802 of 1998, the petitioner-Management has already deposited half of the back wages as awarded by the Labour Court and the same were withdrawn by 1st respondent-workman.

In view of the above, the award passed by the Labour Court is modified to that of reinstatement with continuity of service but without attendant benefits and only 50% of the back wages, which were already deposited

and withdrawn by 1st respondent-workman. Further, 1st respondent-workman shall be punished with withholding of two increments with cumulative effect.

Writ petition is disposed of accordingly. No costs.

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18-07-2007

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